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South Carolina Gov. Nikki Haley says state won't back down on MOX lawsuit

The Augusta Chronicle

April 21, 2014

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AIKEN -- South Carolina Gov. Nikki Haley said the state won't back down on its lawsuit challenging the Obama administration's decision to stop construction on the mixed-oxide fuel fabrication facility at Savannah River Site.

After flying over the site and MOX facility construction area in a helicopter Monday, Haley said the federal government has made empty promises for nuclear waste disposal that undermine the potential for economic development at Savannah River Site.

"You see all the work that has been done," Haley said about the partially finished MOX facility. "I saw how much has been accomplished, and then

you're saying 'for nothing?' You have already made a very real investment. It really defies all logic."

South Carolina sued the U.S. Department of Energy in March for placing the plant on hold after investing billions of dollars in the project, intended to convert 34 metric tons of weapons-grade plutonium into commercial nuclear fuel. Haley has said closing the facility would violate an international nonproliferation agreement with Russia.

Last week, state Attorney General Alan Wilson asked a federal judge to rule in the state's favor without a trial. Federal officials have until May 1 to respond to South Carolina's motion.

"You are going to continue to see us very loud. We are going to continue to demand answers. This is not on the president's timeline. This is on our timeline," Haley said.

She said the federal government also acted against SRS when it suspended funding for Yucca Mountain, a permanent federal repository for nuclear waste in Nevada.

"The rug was pulled out from under us when they were supposed to take glass (waste) containers in the first place and they are still sitting there," she said.

Washington State, DOE Reject Changes to Hanford Agreement

Nuclear Street

April 21, 2014

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Washington state and the Department of Energy have rejected each other's proposals amending an agreement on waste cleanup at the Hanford site.

The state won a consent decree in 2010 that set milestones for the cleanup of Cold War-era nuclear waste at the site. Many are unlikely to be met because of technical challenges, particularly those related to the delayed Waste Treatment Plant (WTP) to vitrify tank waste. DOE offered a proposed amendment to the decree last month that would give the agency more leeway to manage delays. But on Friday, Washington's governor and attorney general rejected many of its terms, specifically what they described as a lack of enforceable deadlines.

"While Washington agrees there should be a phased implementation of WTP facilities, the manner in which Energy has proposed to amend the consent decree to implement such a phased approach lacks sufficient specificity, accountability and enforceability," read the state's response to the DOE.

In a statement, the attorney general said the state will pursue legal action against the agency as early as next week. That could entail a 40-day dispute resolution process outlined in the original agreement, possibly followed by another court order.

Washington had proposed its own plan to amend the consent decree, which the DOE also announced it had rejected Friday. An agency statement read: "The state's proposal reflects agreement between DOE and the state in several key areas. It does not, however, adequately account for the realities of technical issues resolution, project management requirements and budget constraints, and therefore DOE cannot accept the state's proposal."

Dennis Deziel Serving as EM's Acting Deputy Assistant Secretary for Program Planning and Budget

Office of Environmental Management

April 23, 2014

Colleagues,

I am pleased to announce that Dennis Deziel is EM's Acting Deputy Assistant Secretary for Program Planning and Budget, effective this last Monday. With his deep knowledge of the federal budget process, Dennis has been a great asset to EM since he was named the Associate Deputy Assistant Secretary for Program Planning and Budget in November 2012.

More than 20 years ago, Dennis began his Federal career in EM as a Management Fellow, contributing to the creation of our program's initial Five-Year Plans and the Baseline Environmental Reports in the mid-1990s. Dennis then moved on to work as a regulator at the U.S. Environmental Protection Agency, managing environmental cleanup and chemical programs. He has also held roles as an advisor at the White House Council on Environmental Quality and as a National Security Fellow in the U.S. Senate. Before returning to EM in 2012, Dennis managed chemical and nuclear infrastructure security programs at the U.S. Department of Homeland Security.

I would like to give my sincere thanks to Dennis for his willingness to act in this important role.

Dave Huizenga

Obama admin calculations spared developers millions in loan guarantee fees for Ga. nuclear project, documents show

Environment & Energy Publishing

April 21, 2014

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The Obama administration finalized \$6.5 billion worth of loan guarantees for the country's first U.S. reactors in decades without requiring developers to pay a "credit subsidy fee" -- money that protects taxpayers should the developers default, according to documents obtained by Greenwire.

The Energy Department zeroed out the fees in February when finalizing a first-of-its-kind \$3.5 billion loan guarantee for a subsidiary of Southern

Co. and an approximately \$3 billion loan guarantee for Oglethorpe Power Corp. to build two reactors at the Alvin W. Vogtle nuclear plant, about 30 miles southwest of Augusta, Ga., according to two letters obtained through Freedom of Information Act requests.

DOE Loan Program Office Executive Director Peter Davidson sent a Feb. 11 letter to Earl Long, Southern subsidiary Georgia Power's assistant treasurer, and a separate letter the same day to Betsy Higgins, Oglethorpe's chief financial officer, which said the companies owed nothing in final credit subsidy fees tied to the execution of the Vogtle loan guarantees.

"The credit subsidy fee payable to DOE in connection with its execution of the loan guarantee agreement dated Feb. 20, 2014, between DOE and [Oglethorpe], pursuant to which DOE will guarantee a federal financing bank loan to OPC [for \$3 billion, including estimated capitalized interest] is \$0," Davison wrote in one letter to Higgins.

The Office of Management and Budget's calculation may reflect that Southern Co. has invested billions -- more than \$25 billion -- in the project and is an investment-grade company with years of experience in the electricity business -- unlike other startups the agency has provided with loan guarantees. A 2013 report from the Nuclear Energy Institute noted both Southern Co. and its subsidiary, Georgia Power, are A-rated, investment-grade companies that can recoup costs, being located in a regulated market.

DOE spokesperson Dawn Selak: "This calculation is based upon a standard methodology used across the federal government. In this case, it should be noted that the Vogtle project sponsors are well-established, sizable companies that are already heavily invested and wholly committed to the project."

Southern Co., notably, declined to provide a comment for the record.

While Vogtle is moving forward, other loan guarantees in the past, authority DOE has under the Energy Policy Act of 2005, have not materialized. Most recently, Constellation Energy Group -- now a division of leading nuclear power generator Exelon Corp. -- backed away from plans to build a reactor in Maryland after DOE asked for an initial \$880 million upfront payment in fees, an amount calculated by the OMB, to protect against a potential project default.

Activists have for years called on DOE to divulge the details of the loan guarantees, namely the credit subsidy fees -- an amount that represents the "price tag" nuclear developers must pay to the federal government to cover the risk that a project is not completed and that the government may have to repay the project's lenders.

The zero-sum figure drew immediate criticism as a "sweetheart deal" for the companies.

"It is outrageous that the Department of Energy and Office of Management and Budget somehow determined that the two reactors under construction at Plant Vogtle pose less of a risk of default today than they did a couple years ago," said Sara Barczak, director of the

Southern Alliance for Clean Energy's high-risk energy choices program. Barczak said the fees are critical in light of the 2011 nuclear disaster in Japan, stiff competition nuclear projects face from cheap gas and the snuffing out of other projects.

"The Vogtle expansion is 21 months behind schedule, well over \$1 billion over budget and has a large outstanding lawsuit of nearly another billion dollars between Southern Co. and Westinghouse," she said. "How that together doesn't constitute an unacceptable risk to taxpayers is baffling."

The fees are based on the Office of Management and Budget's governmentwide formula. The OMB formula, according to a Nuclear Energy Institute 2010 white paper, is based on the probability of default and how much is lost or recovered, the timing of the default, and how quickly the company would recover.

The revelation that the credit subsidy fees for Southern and Oglethorpe are nil is critical in light of DOE's ongoing negotiations on a third loan guarantee for \$1.8 billion for the Municipal Electric Authority of Georgia, which is also taking part in building the two Westinghouse AP1000 units that are slated to begin operating at Vogtle in 2017 and 2018.

Georgia Power owns 45.7 percent of the Vogtle project, Oglethorpe owns 30 percent and MEAG, a consortium of municipalities, owns 22.7 percent.

The fees have been a point of debate in negotiations surrounding the loan guarantees -- agreements initially expected to be finalized in 2012 that got bogged down over terms and costs and eventually complicated by DOE requirements that were added after the much-publicized bankruptcy of solar panel maker Solyndra, which had received federal loan guarantees (E&ENews PM, Jan. 30).

Southern CEO Tom Fanning hinted in 2012 that the utility could move forward with Vogtle without the DOE support, saying, "Whatever terms and conditions we enter into ultimately work to the benefit of our customers" (Greenwire, July 19, 2012). But during the following months and years, Southern officials said they were nearing an agreement -- one suitable for a large corporation -- that was economical for customers (E&ENews PM, Feb. 21, 2013).

Analysts say that the future of the U.S. nuclear industry, and of nuclear power generation in the United States, will largely depend on the success of the two reactors, called Vogtle 3 and 4. Although the reactors are being built, developers have already faced regulatory snags and construction hang-ups, leading to delays and cost increases over time. The project is now estimated to cost the utility and its ratepayers nearly \$15 billion.

Even so, the agreement signifies the White House's push for new nuclear, as well as a drawdown of the original nuclear program.

When the White House announced its conditional commitment in 2010, then-White House climate adviser Carol Browner said she hoped the Georgia reactors would be "the first of many new nuclear projects." That call saw a Democratic president being cheered by the nuclear power

industry for supporting nuclear's long-hoped-for revival, while being condemned by nuclear power opponents on the left for putting billions of dollars in taxpayer money at risk (ClimateWire, Feb. 17, 2010).

Industry officials at the time said an upfront credit subsidy payment of 1 to 2 percent of the loan amount would be manageable, but a significantly higher number would kill the proposed reactor projects.

The nuclear industry has defended the project. The NEI in its 2010 white paper noted that Southern and other utilities building the reactors are placing their balance sheets at risk -- "in essence, pledging the company and its assets as security for the loan guarantee."

Lake Barrett, an energy consultant based in Washington, D.C., noted that the Vogtle reactors are located in a regulated market and that the Public Utility Commission in Georgia supports the project. "[The project] is pretty low-risk from an investment point of view, they're in a state that's regulated and the ratepayers are going to honor those debts," he said. "The companies get a reasonable rate of return, as opposed to 'you're on your own, baby.'"

DOE has received eight other applications for almost \$64 billion in loan guarantees that the agency considers inactive. Following the finalization of MEAG's loan guarantee, DOE will have \$10.2 billion in remaining nuclear authority -- enough, the agency anticipates, to support one other nuclear generation project, according to the Government Accountability Office.

Mound Revitalization Workshop May 20-21

Office of Legacy Management

You are invited to the Mound Reindustrialization Workshop at the Mound Advanced Technology Center in Miamisburg. A full day of presentations will take place May 20 and a half-day tour of the Mound site will be offered on May 21.

The challenges of reindustrialization will be explored through topics such as the Energy Park and redevelopment at Mound, updates to asset revitalization initiatives, the Title 10 Code of Federal Regulations, Part 770 final rule, and other topics pertaining to redevelopment.

Mound Development Corporation also invites you to attend a dinner event on May 20 to celebrate their accomplishments and usher in their marketing strategies for the future.

RSVP to Mound@lm.doe.gov by Wednesday, April 30.

For more information about the workshop, please contact Gwen Hooten by e-mail at gwen.hooten@lm.doe.gov, or by phone at (720) 880-4349.

Legacy Management Program Update: 1st Quarter 2014

Office of Legacy Management

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Inside this Update: DOE Celebrates 20-Year Anniversary of Executive Order 12898; LM Updates the Public on Defense-Related Uranium Mines Report to Congress; LM Issues ULP PEIS; Tracking Uranium Atoms; LM and MSEM Provide Public Education; Bobcats at the Fernald Preserve; LM Meets with Native Village of Point Hope, Alaska; 2014 Waste Management Conference; FY 2015 Budget Request; Mound Workshop Save the Date; Records/IT Disaster Exercise; 2014 National Environmental Justice Conference and Training Program; and more.

The Program Update newsletter is produced every quarter and highlights major activities and events that occurred across the DOE complex during that period of time.

Carol M. Browner, Longest Serving EPA Administrator, Joins Nuclear Matters

Nuclear Matters

April 22, 2014

[LINK](#)

Nuclear Matters today announced that Carol M. Browner, former Environmental Protection Agency (EPA) Administrator and former Director of the White House Office of Energy and Climate Change Policy, is lending her support to the bipartisan campaign to preserve America's existing nuclear plants because of the many benefits they provide, in particular for their role in helping to address climate change by producing carbon-free electricity.

Ms. Browner joins Nuclear Matters' Leadership Council, broadening its bipartisan reach and adding extensive energy and environmental expertise to the campaign. Nuclear Matters - co-chaired by former Senators Evan Bayh (D-IN) and Judd Gregg (R-NH) - works to spark conversations with the public and policymakers to highlight the value of America's existing nuclear plants, especially given their contribution to this country's carbon-free energy production, their reliability, and their economic benefits. For a number of reasons, some of the nation's existing nuclear energy plants face threats to their continued operation.

"As EPA Administrator, I led an organization charged with protecting our nation's public health and the environment, and I saw first-hand how important producing energy and electricity from clean sources is to our energy security and the health of our communities," said Ms. Browner. "Preserving our existing nuclear plants will be a key part of our efforts to reduce carbon emissions and build a cleaner-energy future and safer environment for our children."

"Carol Browner was the longest serving Administrator of the EPA, where she was known for working with both environmental groups and the private sector to promote clean air and other environmental goals," said Senators Bayh and Gregg. "Nuclear Matters looks forward to having her continue her efforts to educate the public and key stakeholders on the importance of existing nuclear energy plants to reduce carbon emissions, and to working with all parties involved to identify the right kinds of solutions that will help preserve these valuable resources."

Ms. Browner joins former Secretary of Energy and U.S. Senator Spencer Abraham, and former Secretary of Commerce and White House Chief of Staff Bill Daley, on the Leadership Council of Nuclear Matters.

Our existing nuclear energy plants produce virtually no carbon dioxide or air pollution. They provide about 20% of America's energy supply, and account for 64% of the country's emission-free generation. In fact, our existing nuclear energy plants produce more clean air energy than all other sources combined. To put this in perspective, existing nuclear power plants prevented 569 million metric tons of carbon dioxide emissions in 2012, equal to CO2 emissions from 110 million automobiles. Those same plants also prevented 1 million short tons of sulfur dioxide (which contributes to acid rain) and a half-million short tons of nitrogen oxide (which causes urban smog).

To learn more or join in the efforts of Nuclear Matters, please visit www.NuclearMatters.com.

Technology Development Efforts for the Uranium Processing Facility

GAO

April 18, 2014

[LINK](#)

GAO has identified five additional risks since its November 2010 report (GAO-11-103) associated with using new technologies in the National Nuclear Security Administration's (NNSA) Uranium Processing Facility (UPF), which is to be built in three interrelated phases. These risks and the steps that NNSA is taking to address them include the following:

- Technology integration risks . An August 2013 UPF independent peer review team concluded that the microwave casting technology--a process that uses microwave energy to melt and form uranium into various shapes--has not been demonstrated in a relevant environment, which is a requirement to reach a key technology maturity milestone. To address this risk, NNSA officials said they plan to accelerate the procurement and environmental testing of a microwave casting prototype.
- Technology development risks . A key insulation material planned as a nuclear safety control during uranium casting failed a series of performance tests in fiscal year 2013. According to UPF contractor representatives, this risk is now the project's most significant technological risk. To address this risk, these representatives said they are trying to identify a replacement insulation material and exploring the use of a different safety control.
- Technology transition risks . NNSA is currently evaluating an alternative technology to the UPF's baseline uranium purification technology, which has been under development since 2005. The alternative technology may generate less radioactive waste and may be more efficient to operate than the baseline technology. If NNSA switches technologies, NNSA officials said that the UPF

contractor (1) will have to redesign the processing area and equipment; (2) may have to add utilities; and (3) will have to revise the UPF's nuclear safety analysis, creating the potential for further project risks.

- Performance assurance risks . NNSA stopped development efforts on a key machining technology, which is part of the UPF's second phase. As a result, NNSA may not have optimal assurance that the technology will work as intended before starting construction. However, in January 2014, NNSA began (1) reevaluating alternatives to the UPF that may not include machining operations and (2) developing a uranium infrastructure strategy, which is a framework for how NNSA will maintain all uranium capabilities into the future. It is too soon to determine if the draft uranium strategy, scheduled to be issued in April 2014, will outline actions to address this risk.
- Funding risk . Instead of using UPF project funds, NNSA has primarily funded UPF technology development activities from a limited research and development program. As a result of budget constraints in this program, for fiscal year 2014, 7 of the 19 technology projects the UPF contractor considered priority were not funded. Per a corrective action plan recently developed, the UPF Assistant Project Manager for Technology is responsible for determining which technology development activities should be funded directly with UPF project funds and is to prepare a cost estimate for those activities. This official said he expects to complete these estimates in March 2014.